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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,120	10/26/2001	Majid Syed	708034-605-004	2398
7590 01/10/2008 Blaney Harper Jones, Day, Reavis & Pogue 51 Louisiana Avenue, NW Washington, DC 20001			EXAMINER MYHRE, JAMES W	
			ART UNIT 3622	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/045,120

Applicant(s)

SYED, MAJID

Examiner

James W. Myhre

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 57-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 57-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to the Response filed on November 8, 2007.

Claims 1-26 and 57-94 are currently pending and have been considered below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-26 and 57-94 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al (6,374,177).

Claims 1, 16, 57, 68, 76, and 87: Lee discloses a method, apparatus, and product for communicating data content, comprising:

- a. sending/receiving broadcast information via digital radio broadcast (column 11, lines 1-15);
- b. tracking one or more actions associated with content of interest, said actions being entered into a man-machine interface (column 11, lines 16-34); and

c. accumulating the information pertaining to the actions until a threshold (e.g. Lee sends in the request after accumulating one user action, such as pressing the INFO or BUY buttons) is reached at which time a request for the content of interest is communicated (column 11, lines 16-34).

Claims 2, 17, 58, 69, 77, and 88: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57, 68, 76, and 87 above, and further discloses the action being tracked includes any of storing broadcast information, clearing broadcast information, purchasing products advertised in the broadcast information, purchasing content of interest, or browsing other broadcast data (column 11, lines 16-34).

Claims 3, 4, 19, 59, 60, 78, and 79: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57 and 76 above, and further discloses receiving system information including a time stamp from a GPS system (column 11, lines 16-34 and 51-62). The Examiner notes that the claimed feature of receiving "random number information" along with the time stamp information is given little, if any, patentable weight in that the claims do not include any subsequent use of the random number, thus it does not effect the invention. The Examiner further notes that computer systems transmitting messages across the Internet or other networks add randomly generated numbers as message identifiers in order to subsequently determine if the transmission was successful, which message a return message is in response to, etc. Thus, since Lee discloses transmitting the messages through numerous types of networks, it is inherent

that a message number (randomly generated or otherwise) has been attached to each message.

Claims 5, 22, 61, 72, 80, and 91: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57, 71, 76, and 87 above, and further discloses authenticating the receiver (the receiver registers and must sign in)(column 13, lines 55-67).

Claims 6, 7, 23, 62, 71, 81, and 90: Lee discloses a method, apparatus, and product as in Claims 1, 3, 16, 59, 68, 78, and 87 above, and further discloses placing an electronic order for said content of interest synchronized with the server (column 11, lines 16-34).

Claims 8, 20, 63, and 82: Lee discloses a method, apparatus, and product as in Claims 6, 16, 62, and 81 above, and further discloses communicating the request using PPP, TCP/IP, UDP, or WDP protocols. (column 8, lines 30-50 and column 10, lines 40-59).

Claims 9, 64, and 83: Lee discloses a method, apparatus, and product as in Claims 1, 57, and 76 above, and further discloses processing (converting) the content of interest for digital broadcast to the receiver (column 10, lines 60-67).

Claims 10 and 11: Lee discloses the method as in Claim 1 above, and further discloses delivering the content of interest on an article of manufacture (column 11, lines 16-34).

While it is not explicitly disclosed that the article of manufacturer (i.e. product) is a CD-

ROM, DVD, magnetic tape, optical disc, hard drive, floppy disk, ferroelectric memory, flash memory, ferromagnetic memory, optical storage, charge coupled devices, magnetic or optical cards, smart cards, EEPROM, EPROM, RAM, ROM, DRAM, SRAM, or SDRAM, no patentable weight is given to the type of product being purchased and delivered. Both the applicant's invention and the invention disclosed by Lee could be used to purchase any type of product from music CD-ROMs to food to insurance to cars, etc. Furthermore, Lee discusses purchasing music from a store for downloading to the receiver. Such music products are usually stored on one or more of the claimed articles of manufacturer. Thus, Lee at least implies that the product could be on one of the claimed types of articles of manufacture.

Claims 12, 15, 24, 67, 73, 86, and 92: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57, 68, 76, and 87 above, and further discloses broadcasting using in-band on-channel digital radio broadcast (digital audio broadcast – DAB)(column 11, lines 1-15).

Claims 13, 25, 65, 74, 84, and 93: Lee discloses a method, apparatus, and product as in Claims 7, 23, 62, 71, 81, and 90 above, and further discloses that the threshold indicates the number of actions to be recorded (e.g. one) or a download time limit or content size to be reached before placing the order (column 11, lines 16-34).

Claims 14, 26, 66, 75, 85, 94: Lee discloses a method, apparatus, and product as in Claims 1, 16, 57, 68, 76, and 87 above, and further discloses the user is able to set up (customize) the parameters of the digital radio broadcast interface (column 6, lines 21-32). Since the threshold field is one of the parameters, it is inherent that the threshold would be modifiable by the user.

Claims 18, 70, and 89: Lee discloses the method as in Claims 16, 68, and 87 above, and further discloses that the man-machine interface is a graphical user interface (column 8, lines 62-67).

Claim 21: Lee discloses a method as in Claim 16 above, and further discloses electronically receiving the content of interest (e.g. information about the music being played on the digital audio broadcast)(column 11, lines 16-34).

Response to Arguments

4. Applicant's arguments filed November 8, 2007 have been fully considered but they are not persuasive.

a. The Applicant argues that Lee does not teach "accumulating information regarding one or more actions entered in a man-machine interface of a receiver until a predetermined threshold associated with said actions is reached, and after reaching said threshold, communicating a request for said data content of interest" (page 2). The Examiner notes that the rejection of the independent claims above has been modified to

better clarify the Examiner's position. Lee discloses that the system does not communicate the request for said data content of interest until after the user has initiated at least one action - - pressing the BUY or INFO buttons. Thus, the threshold value which the user must reach before the request is sent in has been set to one, which reads on the claim of "tracking one or more actions". This also reads on the limitation in Claim 2 wherein the actions include "purchasing products advertised in the rendered broadcast data".

b. The Applicant also argues that Lee does not disclose delivering data content of interest on an article of manufacture that is one of the claimed types (page 4). The Examiner has discussed this in detail in the rejection of Claims 10 and 11 above. The type of product being purchase does not affect the method of purchasing the product. Any product or article of manufacture could be purchased using either the Applicant's or Lee's inventions; thus, no patentable weight is given to what the product is or what type of article of manufacture is used to enclose the product.

c. The Applicant further argues that Lee does not disclose "broadcasting using in-band on-channel digital radio broadcast", but only discloses using "new digital broadcasters such as satellite radio" (page 4). The Examiner notes that Lee discloses that many types of radio broadcast signals may be used. One of the objects of his invention is "to allow any AM, FM, TV audio, or digital audio broadcast or any Internet audio broadcast to be easily selected by format" (column 6, lines 40-42) and "to allow purchases to be made of an advertised on air product" (column 7, lines 62-64). Thus, Lee is not directed to only Internet audio broadcasts as suggested by the Applicant, but

rather all types of broadcasts to include digital audio broadcasts (i.e. digital radio broadcasts).

d. As to the Applicant's argument in reference to modifying the threshold by the user, the Examiner notes that the rejection does not state that Lee explicitly discloses the user modifying the threshold, only that since it is disclosed that the user can modify the user profile parameters and since the threshold is part of the user's profile that it would be inherent that the user would be able to modify the threshold also. For example, the user may set up a predefined credit card to be used for all transactions, thus only requiring one action (pressing the BUY button) to complete the purchase. Or, the user may have entered two or more credit cards into his profile resulting in the need to press the BUY button and then select the desired credit card (or vice versa) before the purchase could be completed, thus requiring two actions. These are well known options for conducting on-line (remote) purchases and received some notoriety in the public discussion about the "one-click" patent issued several years ago.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Myhre whose telephone number is (571) 272-6722. The examiner can normally be reached on Monday through Thursday 6:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JWM
January 2, 2008



James W. Myhre
Primary Patent Examiner